

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SAMUEL RYAN,

Petitioner,

Case No. C12-727 JCC-BAT

V.

MAGGIE MILLER-STOUT,

Respondent.

REPORT AND RECOMMENDATION

Pro se petitioner Samuel Ryan moves to stay his 28 U.S.C. § 2254 habeas petition because

he has a personal restraint petition ("PRP") pending in state court and has not yet exhausted

state-court remedies. (Dkt. 9.) Respondent does not oppose petitioner's motion but asks that

petitioner provide her and the Court with a certificate of finality at the conclusion of the state

PRP proceeding to indicate that the stay should be lifted. (Dkt. 10.)

The Court finds that the parties have demonstrated good cause for staying the present matter

as a “protective” habeas petition in light of petitioner’s risk of running afoul of the federal, one-

¹year statute of limitations. See *Pace v. DiGuglielmo*, 544 U.S. 408, 416 (2005). Mr. Ryan refers

to having more than one prior state PRP rejected on the merits. (Dkt. 6 at 3-4.) Should his

currently pending state PRP be rejected on procedural grounds, there is a real possibility that a

¹ future habeas petition would be time-barred in federal court if, rather than staying this matter, the

1 Court were to dismiss the current habeas petition. *See* 28 U.S.C. § 2244(d)(1)–(2) (providing
2 that the federal statute of limitations is tolled only during the pendency of a “properly filed”
3 PRP).

4 The Court recommends **GRANTING** petitioner’s unopposed motion to stay and abey the
5 proceedings until his pending state-court PRP proceeding is completely adjudicated. (Dkt. 9.)
6 The Court also recommends: (1) directing **respondent** and **petitioner** each to file a status report
7 with Magistrate Judge Brian A. Tsuchida every ninety (90) days, beginning ninety (90) days
8 from the date of the order adopting this Report and Recommendation; (2) directing **petitioner** to
9 send to respondent and to the Court a copy of the certificate of finality for his currently pending
10 state PRP within fourteen (14) days of receiving it; and (3) striking all pending deadlines, and
11 providing that respondent need not file an Answer to the federal habeas petition until forty-five
12 (45) days after the stay of proceedings is lifted.

13 As the respondent does not oppose petitioner’s motion, the Court recommends if this
14 recommendation is adopted, that it be approved immediately. A proposed order accompanies this
15 Report and Recommendation.

16 DATED this 24th day of May, 2012 .

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19 BRIAN A. TSUCHIDA
20 United States Magistrate Judge
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